

1 Jeffrey M. Goldman (State Bar No. 233840)

2 goldmanj@pepperlaw.com

3 Luke N. Eaton (State Bar No. 280387)

4 eatonl@pepperlaw.com

5 **PEPPER HAMILTON LLP**

6 350 South Grand Avenue, Suite 3400

7 Los Angeles, CA 90071

8 Telephone: 213.928.9800

9 Facsimile: 213.928.9850

10 Attorneys for Plaintiff

11 Fund Recovery Services, LLC

12
13 **UNITED STATES DISTRICT COURT**
14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15 FUND RECOVERY SERVICES,
16 LLC, a Delaware limited liability
17 company,

18 Plaintiff,

19 v.

20 SHORESIDE SPV FUNDING I,
21 LLC, California limited liability
22 company; SHORESIDE LOANS,
23 LLC, a California limited liability
24 company; DYLAN C. COHEN, an
25 individual; RICHARD COHEN, an
26 individual, and DOES 1 through 40,
27 inclusive

28 Defendant.

Case No. 2:18-cv-03775

**DECLARATION OF JACK COOK
IN SUPPORT OF MOTION TO
TRANSFER VENUE OF REMOVED
ACTION PURSUANT TO 28 U.S.C. §
1412 AND/OR 28 U.S.C. § 1404**

1 I, Jack Cook, declare as follows:

2 1. I am the CEO of Plaintiff Fund Recovery Services, LLC (“FRS”).

3 2. I make this declaration based upon personal knowledge in support of
4 plaintiff FRS’ Motion to Transfer Venue Pursuant to 28 U.S.C. § 1412 and/or 28
5 U.S.C. § 1404.

6 3. On or about January 3, 2018, FRS commenced an action in the
7 California Superior Court, Los Angeles County, Case No. BC689129 against
8 defendants Shoreside I, Shoreside Loans, Dylan Cohen and Richard Cohen seeking
9 money damages as a result of Defendants’ breach of contract (Counts 1 and 2),
10 breach of fiduciary duty (Count 3), intentional interference with contractual
11 relations (Count 4), and aiding and abetting (Count 5), all of which stems from
12 Defendants’ breaches and tortious actions related to the Loan Agreements (the “Los
13 Angeles Action”). A true and correct copy of the Complaint is attached hereto as
14 **Exhibit 1.**

15 4. On or about March 27, 2015, FRS’s predecessor-in-interest, Princeton
16 Alternative Income Fund, LP (“PAIF”), established a line of credit in favor of
17 defendant Shoreside SPV I, LLC (“Shoreside I”). The financing terms were
18 memorialized by that certain Loan and Security Agreement (the “Loan
19 Agreement”). (Ex. 1, Complaint ¶¶ at 11-13.)

20 5. Simultaneously with the execution of the Loan Agreement, Shoreside I
21 executed and delivered to PAIF a revolving loan note (the “Note”). (Ex. 1,
22 Complaint at ¶ 42.)

23 6. On November 10, 2015 Shoreside I and PAIF entered into a revised
24 revolving loan note (the “Revised Note”). (Ex. 1, Complaint at ¶ 46.)

25 7. On or about, March 23, 2015, as an inducement to PAIF to loan
26 Shoreside I money, Shoreside Loans, LLC (“Shoreside Loans”) executed a
27 Guaranty and Suretyship Agreement (the “Guaranty Agreement”) in favor of PAIF.
28 (Ex. 1, Complaint at 48.)

1 8. The Loan Agreement, the Guaranty Agreement, the Note, and the
2 Revised Note (collectively, the “Loan Documents”) from which this action arises,
3 all state that the parties to those agreements “irrevocably consent and submit to . . .
4 the jurisdiction of . . . the United States District Court for the District of New
5 Jersey, Mercer County Vicinage . . . and waive any objection based on venue or
6 forum non conveniens with respect to any action instituted therein arising under this
7 Agreement . . . whether in contract, tort, equity or otherwise, and agree that any
8 dispute with respect to any such matters shall be heard only in the courts described
9 above” Loan Agreement Section 11.1(b) (attached to Complaint as Exh. B);
10 Guaranty Agreement ¶ 36 (attached to Complaint as Exh. E); the Note at 2
11 (attached to Complaint as Exh. C); the Revised Note at 2 (attached to Complaint as
12 Exh. H.)

13 9. On or about September 14, 2016, PAIF assigned all of its rights, title
14 and interests under the Loan Documents to FRS. (Ex. 1, Complaint, at Ex. A.)

15 10. On March 9, 2018, PAIF filed a voluntary petition for relief under
16 chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the
17 United States Bankruptcy Court for the District of New Jersey, under Lead Case
18 No: 18-14603 (MBK).

19 11. PAIF is the sole member of FRS. PAIF is funding all of the expenses,
20 including but not limited to legal fees, incurred by Plaintiff in the Los Angeles
21 Action. All funds recovered in this action will inure to the benefit of PAIF.

22 12. On May 4, 2018, FRS filed a Notice of Removal of the Los Angeles
23 Action to this Court pursuant to 28 U.S.C. §1452 and Fed. R. Bankr. P. Rule 9027
24 by the filing of a Notice of Removal. A copy of the Notice of Removal is attached
25 hereto as **Exhibit 2**.

26 13. Plaintiff’s principal place of business is located in Princeton, New
27 Jersey. Much of the physical evidence and most of the witnesses relevant to the
28 Los Angeles Action will be located in New Jersey.

1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct.

3
4 Executed on: May 7, 2018, at Princeton, New Jersey.

5 
6 _____
7 Jack Cook